ance of many decisions rendered during that period upon several modern statutes. These decisions have added to the interest and value of the work, which is now brought quite down to date.

F. M. B.

THE LAW OF FRAUDULENT CONVEYANCES, by MELVILLE M. BIGELOW, Ph. D. (Harv.), with editorial notes by KENT KNOWLTON, of the Boston Bar. Boston: LITTLE, BROWN & Co. 1911.

The present work is the result of an analysis of Dean Bigelow's original work on Fraud, wherein he dealt with the subject under the two grand divisions of Deceit and Circumvention. The doctrine of Fraudulent Conveyances, which the learned author had discussed under the latter head, now appears as an independent volume, under the more immediate title of Fraudulent Conveyances.

It is perhaps ungracious to say of the best book upon the subject, that although it draws the line between the kind of fraud comprehended by this subject and the various species which belong to the law of Deceit, and also apportions off the domain of preferential transfers, yet still it leaves the fences down on other sides.

The subject has always required thorough definition, but has never adequately received it. Not only was the origin of the doctrine of fraudulent conveyances statutory, but the conception embodied by the statute was at variance with all the common law ideas of remedial justice. It is true that Lord Mansfield once said (*Cadogan* v. *Kennett*, 2 Cowp. 432) that the statute of Fraudulent Conveyances was declaratory of a common law principle, but Lord Mansfield had the same attribute which Matthew Arnold once attributed to Macaulay: happily or not, he possessed a heightened way of putting things. There never was a common law conception of procedure which could enable a creditor to levy his writ of execution upon the property of one who was not the judgment debtor, and that is what the Statute of Elizabeth undertook to permit. Of course, if Lord Mansfield's learning in the history of the common law had been as extensive as his knowledge of other fountains of jurisprudence, we might think he was referring to the mediæval statutes denouncing fraudulent conveyances, which are graphically pictured in Professor Bigelow's work; but even that would not help us much. These statutes, it is true, denounce the practice of putting one's goods beyond the reach of creditors, but from the fact that the courts did not enforce the statutes, the conclusion might not be wrong that they occupied the same position as many other comminatory pronouncements of English sovereigns, which in old times were put in the shape of statutes. As in "The Law's Lumber Room" was said by Mr. Watt, a writer in lighter vein, but who, nevertheless, was a learned lawyer, the mediæval sovereigns had a great way of lecturing their people in the guise of statutes. A striking instance of this practice was the sumptuary laws, enacted at various times before the days of the Tudors. It might very well be that the early sovereigns during whose reigns statutes of Fraudulent Conveyances were passed, had the same aversion to fraudulent debtors as to shoes of an ell's length. But it was not until the time of Elizabeth that the King's Bench seems to have believed that Parliament meant what it said when it enacted that it was unlawful to convey your goods in fraud of creditors. Of course, this great statute has passed into every English speaking country, but the

whole doctrine of taking the goods of A to pay the debts of B, because B transferred to A with intent to defraud, must go back to it alone, and cannot be traced into any principle of equity, to say nothing of any rule of the common law. The result is that, in discussing the subject of Fraudulent Conveyances, it is necessary sharply to draw the line around its particular province. Many cases of fraud upon creditors' rights really fall within doctrines belonging to equity, but no real case of fraudulent conveyance, such as was contemplated by the Statute, can be adjudged on any principle save the positive rule which Queen Elizabeth's Parliament put into the law of the land.

In effect all the doctrines governing the rights of creditors in the property of their debtor reduce themselves to a few simple principles. The true doctrine of fraudulent conveyances, as enacted by the Statute of Elizabeth, may be expressed in the rule that a man cannot transfer his property, except for a fair consideration, where he is already insolvent or will be rendered so by the transaction in question. When a case does not contain these elements, then it must be decided on some other principle of law. It is not, strictly, the case of a fraudulent conveyance.

Thus under the head of estoppel would come the entire doctrine of reputed ownership, where one, really the owner of property, permits another to act as though it were his and thus gain credit upon the strength of that apparent ownership. The rule which forbids spendthrift trusts in most states, as pointed out by Professor Gray, is properly classified under the law relating to restraints upon alienation. These instances will perhaps suffice, without mention of the delicate shadings between the statutory doctrine of fraudulent conveyances and the equitable doctrine of reputed ownership, presented by many cases dealing with the rights of subsequent creditors (e. g. *Todd* v. *Nelson,* 109 N. Y. 316). It is to be hoped that some day all of these distinctions, and many others which would suggest themselves in the consideration of such a subject, will receive more discussion than is accorded them in the book before us.

The value of the present edition would be greater if the present commentator had brought his authorities more nearly down to date. We do not find in the notes which have been added since the last edition, many of the authorities which have been given to us by the activities of the Federal Courts under the present Bankruptcy Act. Nor do we find, in the discussion of chattel mortgages, the case of *Skilton* v. *Coddington* (185 N. Y. 80) already often cited.

However, all these things will doubtless come in time. The worth of the present book will some time demand a new edition and it is to be hoped that then these cases will receive their proper mention, together with such future decisions as may meanwhile appear upon a subject which, as Coke long ago predicted, would always keep pace with the expanding orbit of fraudulent contrivances.

G. G.

INDEX ANALYSIS OF THE FEDERAL STATUTES, 1789-1873. By MIDDLETON G. BEAMAN and A. K. MCNAMARA. Washington: GOVERNMENT PRINTING OFFICE. 1911.

The present is a praiseworthy and successful effort to furnish a much needed guide to the mazes of the U. S. Statutes at Large, from the days of the fathers to a comparatively recent period. It was not